

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
BRIEF &  
APPENDIX**





75-1258

To be argued by  
DAVID V. KEEGAN

United States Court of Appeals

For the Second Circuit

Docket No. 75-1258

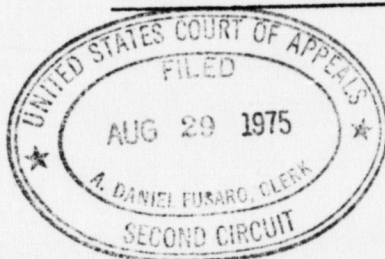
UNITED STATES OF AMERICA, Appellee,

-v-

MAURICE ALEXANDER ADAMS,  
Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

*and appendix*  
BRIEF FOR THE APPELLANT



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## TABLE OF CONTENTS

	Page
Preliminary Statement. . . . .	1
Claims on Appeal . . . . .	2
Statement of Facts . . . . .	3
A. The Government's Case. . . . .	3
B. The Defendant's Case . . . . .	5
Argument . . . . .	5
Point I      The Court Erred In Denying The Defendant's Motion For A Judgment of Acquittal At The Conclusion Of The Government's Case. . . . .	5
Point II      The Court Erred In Refusing To Instruct the Jury To Disregard The Testimony Of A Deputy United States Marshal As To The Presence of a Tatoo On The Defendant's Body, Which The Marshal Observed During An Illegal Search. . . . .	8
Conclusion . . . . .	10

## TABLE OF CASES

<u>Preston v. United States</u> , 376 U.S. 364 (1964). . . . .	9
<u>Schmerber v. California</u> , 384 U.S. 757, 766-772 (1966) . . . .	9
<u>United States v. Nikrasch</u> , 367 F. 2d 740 (7th Cir. 1966) .	10

## TABLE OF STATUTES

Title 18, United States Code, Section 1542 . . . . .	2, 6, 7
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UNITED STATES COURT OF APPEALS  
For the Second Circuit

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Docket No. 75-1258

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UNITED STATES OF AMERICA,

Appellee,

-v-

MAURICE ALEXANDER ADAMS,

Defendant-Appellant.

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BRIEF FOR THE APPELLANT

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Preliminary Statement

MAURICE ADAMS appeals from a judgment of conviction entered on June 24, 1975 in the United States District Court for the Southern District of New York, after a two-day trial before the Honorable Henry F. Werker, United States District Judge and a jury.



Indictment 74 Cr. 1022, filed on October 30, 1974 charged the defendant in one Count with making a false statement in an application for a passport in violation of Title 18, United States Code, Section 1542. The precise statement charged against the defendant was a statement that he was born in St. Croix, Virgin Islands.

On June 24, 1975, Judge Werker sentenced Adams to three years imprisonment under the provisions of Title 18, United States Code Section 4208 (a) (2) with a recommendation that upon completion of the sentence Adams be deported (Tr. 185\*). Adams is presently serving his sentence.

#### Claims on Appeal

1. The Court erred in denying the defendant's motion for a judgment of acquittal at the close of the government's case.

2. The Court erred in refusing to instruct the jury to disregard the testimony of a deputy<sup>Marshal concerning the</sup>/presence of a tatoo on the defendant's body which the Marshal observed during an illegal search.

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\* "Tr." refers to the trial transcript

Statement of Facts  
The Government's Case

Arthurine B. Mitchell testified that in her capacity as a passport examiner she accepted a passport application in the name of David Alexander Adams in which the applicant listed his place of birth as St. Croix, Virgin Islands (G.X.\* 1) (Tr. 19-23). She further testified that her notation, "Certified Abstract, Island", after which she checked a box marked, "Seen and Returned," indicated to her that the applicant presented a certified abstract from the Board of Health of the Virgin Islands with a raised seal in the name of David Alexander Adams (Tr. 28-30). Mrs. Mitchell further stated that she crossed out the words "St. Croix," which appeared before "Virgin Islands," and added "of the U.S." after "Virgin Islands." Mrs. Mitchell made that correction and all others prior to swearing the applicant. (Tr. 31-32).

Sarah Nathness, a foreign service officer, testified that in March of 1974, the defendant submitted a renewal application for a passport in Hamburg, Germany (GX 7) and subsequently wrote a letter to the Consulate in which he stated, "I would like you to know I am not of American nationality or origin." (G.X. 8) (Tr. 37-40; 107-108).

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\*"G.X." refers to government's exhibits.



Edith Leerdam, a statistician in charge of vital records for the Virgin Islands, Department of Health testified that there was no record of the birth of a David Alexander Acams in 1940 in the alphabetical indexes for the two governmental districts comprising the island of St. Croix, Fredericksted and Christiansted. (Tr. 54-58).

George Jascewsky was called as an expert by the government and testified that he had compared fingerprints of the defendant taken in October 1974 (G.X. 11) with fingerprints of a Maurice Skeffers taken in Guyana in 1960 (G.X. 5A) and in his opinion, the fingerprints were made by the same person. (Tr. 73-77).

Victor Oboyski, a Deputy United States Marshal, testified that he received the defendant at Kennedy Airport on October 19, 1971. On October 21, 1971, Oboyski took the defendant from the cell block in the U.S. Courthouse to the fingerprint room, and without instructing the defendant as to his rights, ordered the defendant to lower his pants. Prior to doing so Oboyski had learned that the defendant had an identifying mark on his left thigh. He claimed he conducted this examination to further identify the defendant. (Tr. 86-97).

The defendant stipulated that he had signed, among other items, the application in question. (G.X. 1) (Tr. 108).

### The Defense

The defendant called no witnesses and merely introduced the original fingerprint chart from Guyana (G.X. 5), which the expert had used to make a comparison with the defendant's fingerprints. (Tr. 121).

### Argument

#### Point I

The Court Erred In Denying  
The Defendant's Motion For  
A Judgment of Acquittal  
At The Conclusion Of The  
Government's Case.

At the conclusion of the government's case, the defendant moved for a judgment of acquittal, on the ground that the government's proof clearly showed that the defendant had not made the false statement alleged in the indictment. The indictment charged the defendant with making a false statement, "to wit, that he was born in St. Croix Virgin Islands." The government's proof showed that the defendant submitted an application (G.X. 1), (App. \*35-36) which contained the claim that the applicant was born in St. Croix, Virgin Islands, but before the application was signed, and the statements contained therein adopted, the

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\*"App." refers to the appendix.



passport examiner crossed out "St. Croix," and added "of the United States," after "Virgin Islands." (Tr. 31-32) (App. 6-7). Thus, the government's own proof showed that the statement which the defendant signed and which the State Department accepted and acted upon, was not the statement alleged in the indictment. The question presented is when is the statement made; when the applicant writes the words; when he hands the application to the clerk; or when he signs the application after having the oath of allegiance administered. If it occurs only when the statement is in its final form then the government failed to prove that the defendant made the false statement attributed to him in the indictment and the Court should have entered a judgment of acquittal at the close of the government's case. It is respectfully submitted that the statement which must be alleged and proven false is the statement in its final form, because it is at that point that the applicant signs the application adopting the statements contained therein as his own. At most the government proved the defendant attempted to make the false statement charged in the indictment but was prevented from doing so by the clerk. Since the relevant portion of Section 1542 of Title 18 does not include an "attempt" as an offense, the government failed to prove Adams guilty of the charge in the indictment. Significantly, the second paragraph of Section 1542,

prohibiting the "use" of a false passport does include an "attempted use" as an offense, so it must be presumed that Congress in passing Section 1542 did not intend to include an "attempted false statement" as an offense. Therefore, the Court should have granted the motion for a judgment of acquittal and the conviction must be reversed.



Point II

The Court Erred In Refusing  
To Instruct the Jury To  
Disregard The Testimony Of  
A Deputy United States  
Marshal As To  
The Presence of a Tatoo  
On The Defendant's Body,  
Which The Marshal Observed  
During An Illegal Search.

Without any prior notice to the defendant, which would have enabled him to move to suppress the testimony, Victor Oboyski, a deputy marshal testified that two days after receiving the defendant at Kennedy Airport he noticed a tatoo on the defendant's left thigh (Tr. 91) (App. 8). On cross-examination Oboyski stated that on his own initiative and without advising the defendant of his rights he called the prisoner out of the cell block in the basement of the United States Courthouse, walked him into the print room and asked him to lower his pants, at which time the marshal observed the tatoo on his left thigh. The defendant asked that the testimony concerning the tatoo be stricken, and the jury instructed to disregard it, on the ground that the search was illegal. At the side bar the prosecutor explained that the fingerprint chart from Guyana (G.X. 5) contained a notation that Maurice Skeffers had a tatoo on his left thigh and the

government offered the testimony to prove that the defendant was in fact Maurice Skeffers. The Court felt that the purpose of the search had not been sufficiently established but if the purpose had been to obtain evidence identifying the defendant, it might strike the testimony. After the side bar conference, the witness stated that prior to conducting this examination he had seen a document which indicated that such a mark might exist, and he made the examination to further identify the defendant. (Tr. 93-97) (App. 4-13). The Court reserved decision on the motion and the following day denied the motion, holding that "external marks, birthmarks, tatoos, scars, etc., of a prisoner in custody are not protected by the constitutional ruling against illegal search and seizure nor by the rule against self-incrimination." (Tr. 106).

The Court erred in denying the defendant's motion to strike the testimony and in refusing to instruct the jury to disregard it, because the marshal's warrantless search of the defendant's person to obtain evidence of his true identity was unreasonable in the circumstances. This was<sup>not</sup>/a strip search to discover weapons prior to moving a prisoner; it was too remote in time and place to be considered incident to an arrest, Preston v. United States, 376 U.S. 364 (1964); and there was no danger that the tattoo would disappear or be removed, Schmerber v. California, 384 U.S. 757, 766-772 (1966); in short there were no exigent circum-



stances to justify the search. The government can not seriously claim that Adams, who had been in custody in Germany continuously since April 4, 1974, and who was delivered to the United States Marshal on October 19, 1974, voluntarily consented to the search on October 21, when the deputy marshal told him to lower his pants without advising him of his right to refuse. See United States v. Nikrasch, 367 F. 2d 740 (7th Cir. 1966). Thus the search was illegal, and the fruits of the search should have been suppressed. The Court's refusal to strike the testimony and instruct the jury to disregard it constitutes error requiring reversal.

#### Conclusion

The judgment of conviction should be reversed and the case remanded with instructions to set aside the verdict and enter a judgment of acquittal, or in the alternative, a new trial should be granted at which the use of the illegally obtained evidence and all evidence flowing from the illegally obtained evidence should be suppressed.

Respectfully Submitted  
McCoyd and Keegan  
Attorneys for the Defendant

David V. Keegan  
Of Counsel

APPENDIX



## Table of Contents

	Page
Docket Entries	1-4
Indictment	5
Testimony of Arthurine Mitchell	6-7
Testimony of Victor Oboyski	8-13
Charge of the Court	14-34
Government Exhibit 1	35-36

WERKER, J.

74 CRIM. 1022

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U. S.:
VS.	Thomas E. Engel, AUSA.
MAURICE ALEXANDER ADAMS, a/k/a	791-1932
David Alexander Adams, a/k/a	
Maurice Skeffers, a/k/a	6-24-75
Dominique Andre Allison	
	For Defendant: David Keegan -
	1000 Franklin Avenue
	Garden City, NY 11530
	248-1860

ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED AND DISBURSED			
		DATE	NAME	RECEIVED	DISBURSED
Fine,					
Clerk,					
Marshal,					
Attorney,					
Commissioner's Court,					
Witnesses,					
1542 False statement on passport appl.					
( One Count)					

DATE	PROCEEDINGS
10-30-74	Filed indictment.
11-4-74	No. Deft. (att'y. present) Court directs entry of not guilty plea. Deft. continued remanded in lieu of bail fixed by Mag. at \$20,000. cash or surety. Motions returnable in 10 days. Case assigned to Judge Werker for all purposes. Cannella, J.
11-6-74	Defendant states his correct name is DOMINIQUE ANDRE ALLISON, AUSA. Application for Reduction of Bail - Granted to the extent that \$20,000.00 fixed is reduced to \$10,000.00. Defendant continued REMANDED IN lieu of bail.



DATE	PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFENDANT
15-74	MAURICE ALEXANDER ADAMS - Filed Notice of Motion, returnable at a time fixed by the court, for an order directing the issuance of a subpoena duces tecum in the form annexed etc.		
19-74	Filed memo-endorsed on Motion dtd 11/15/74 -- Granted on consent	So ordered	WERKER, J. (m/n)
9-74	Filed ORDER that U.S. Marshall's office shall serve copies of the annexed subpoena upon the parties named therein w/o prepayment of fees as provide in Rul 17 F.R.Cr.P. --	WERKER, J.	
20-74	ADAMS/ Filed the following documents received from Mag. Baby --Docket Entry Sheet; Criminal Comp. Magistrate's Warrant; Disposition Sheet; Appointment of Counsel; Letter from deft. to Mag. Goettel, retained in Mag.Goettel office.		
7-74	PRE-TRIAL CONFERENCE HELD BY <i>Werker, J.</i>		
3-74	Filed Deft's Notice of Motion, returnable at a time fixed by the Court, to suppress all tangible evidence etc.		
31-74	Filed OPINION # 41657---The govt. motion to transfer the deft. to the Federal Medical Center in Springfield, Missouri for observation and the testing of his mental condition and capacity to stand trial is granted. See attached order(to follow). Werker, J. m/n		
31-74	Filed govts.affdt. of Thomas Engel.		
2-75	Filed ORDER---ORDERED that Marucie A. Adams,deft., be committed to the Federal Medical Center, Springfield, Missouri for the purpose of observation and examination to determine defts. mental competency to stand trial, etc.;ORDERED that the Federal Medical Center report to this court, at the earliest possible date,with copies of said report to be sent to the atty. deft. and to the office of the US Atty. setting forth findings and opinion with respect to the defts. mental competency and sanity. Werker, J. m/n (copy to US Marshal's)		
9-75	Filed govts. notice of readiness for trial.		
28-75	Filed govts. memorandum in opposition to defts. motion to suppress statements and objects.		
28-75	Filed govts. affdt. of Frederick Davis.		
03-75	Filed memo end. on defts. motion dated Dec. 43, 1974 for suppression Motion denied. See memorandum opinion # 42171 dated 12/1/74 Werker, J. m/n (see page -3-)		



DATE	PROCEEDINGS	Date Order of Judgment Noted
04-03-75	Filed OPINION # 42171---Defts. motion for suppression is denied in all respects. The parties are put on notice that trial of this case is scheduled to begin at 10am on Wednesday, April 23, 1975. So ordered, Werker, J. m/n	
13-75	Filed govts. affdt. and notice of motion for an order that four documents copies of which are appended to the affdt. be found admissible into court as evidence, ret. on: date to be fixed by your court.	
13-75	Filed govts. memorandum of law in support of above motion.	
5-27-75	Deft. US Atty. and deft.'s. atty. present--Jury trial began and continued before Werker, J.	
5-28-75	Jury trial contd. and concluded. Jury verdict of GUILTY as charged. Deft. moves to set aside verdict--denied. PSI ordered. Sentence adj. to June 24, 1975. Deft. remanded. Werker, J.	
1-23-75	Filed govts. memorandum of law in support of the admissibility of certain evidence.	
1-23-75	Filed memo end. govts. motion dated May 13, 1975 for evidence into court---The records of the Virgin Islands and of Guyana are admissible in evidence over the objection of defense counsel, etc. as indicated. So ordered, Werker, J. m/n	
1-06-75	Filed order that the US Marshal shall pay Mary Margaret Dundon Russell, the required mileage and witness fee for an appearance. -- Werker, J. m/n	
1-24-75	FILED JUDGMENT (atty. David Keegan present)--the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of THREE(3) YEARS. Pursuant to the provisions of Title 18, USC, Section 4208(a)(2), the deft. shall become eligible for parole at such time as the Board of Parole may determine. The Court recommends deportation after confinement. Werker, J. (copies issued)	
07-07-75	Filed remand dated Nov. 7, 1974.	
1/75	Filed commitment & entered return, Deft. delivered to <i>Warden F.O.H.</i> <i>on 6/24/75</i>	
1-75	Filed true copy of order filed on Jan. 2, 1975 with marshal's return.	
1-07-75	Filed defts. notice of appeal to the USCA from the final judgment entered on June 24, 1975. The court finds that the deft. is indigent and qualifies for the appt. of counsel to represent him on his appeal. Mr. Keegan is ordered to continue to represent him until relieved by the court of appeals and permission to proceed in forma pauperis is granted. So ordered, Werker, J. (copy mailed to AUSA and to defts. atty. to be forwarded to deft.)	
1-07-75	Filed defts. financial affdt.	

[illegible]



TEE:par  
74-1908

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

5

UNITED STATES OF AMERICA :

-v- :

INDICTMENT

MAURICE ALEXANDER ADAMS, a/k/a :  
David Alexander Adams, a/k/a :  
Maurice Skeffers, a/k/a :  
Dominique Andre Allison, :

74 Cr. 1022 (H.P.W.)

Defendant. :

The Grand Jury Charges:

On or about the 8th day of April 1969, in the Southern District of New York, MAURICE ALEXANDER ADAMS, a/k/a David Alexander Adams, a/k/a Maurice Skeffers, a/k/a Dominique Andre Allison, the defendant, unlawfully, willfully and knowingly and with intent to induce and secure the issuance of a passport under the authority of the United States for his own use, contrary to the laws regulating the issuance of passports and the rules prescribed pursuant to such laws, did make a false statement in an application for passport, to wit, that he was born in St. Croix, Virgin Islands, knowing then and there that this statement was false.

(Title 18, United States Code, Section 1542.)

FOREMAN

PAUL J. CURRAN  
United States Attorney

1 gwb Mitchell-cross 31

2 A Right.

3 Q Can you tell us what you crossed out on the

4 application?

5 A I crossed out the name and the mailing box, which

6 was repeated from line 1, which wasn't necessary, and in

7 care of. So I crossed out that information.

8 The next thing I crossed out on this application

9 was he wrote for the City to mail the passport to New York

10 City, New York. I crossed out the "C" in New York City,

11 because we don't write New York City, New York. We only

12 write New York.

13 The next thing I crossed out here was the zip

14 code for clarity of the typist.

15 The next was St.Croix. We don't write the city.

16 We only write the Virgin Islands of the United States.

17 Q So you crossed out St.Croix?

18 A Right.

19 Q It then says "Virgin Islands of the United

20 States." Did you add that?

21 A I added that because that is the way we write

22 that in the passport.

23 Q Which part of that did you add?

24 A In red.

25 Q Mine isn't in color.



1

gwb

Mitchell-cross

32

2

A "Of the United States."

3

Q You added "Of the United States"?

4

A Right.

5

Q And this was done before the applicant swore to the statements contained in the application?

6

A Right. All the notations on the application were done prior to the swearing.

7

Q Thank you. Father's name. Did you cross that out on the second page or the back?

8

A I lined through it, yes, because there is no father indicated on the birth certificate.

9

Q If Mr. Adams' mother was born in the Virgin Islands he would be entitled to a passport as well, wouldn't he, even if he were not born there?

10

A That depends.

11

Q If he could produce proof of that?

12

A Well, even if he was not born in the Virgin Islands and his mother was born there, depending on the time, if he was born in 1940, provided his mother had the prior residence prior to his birth.

13

Q In other words, if she were born in the Virgin Islands at the time it was a U. S. possession, she would be a citizen and therefore he would be a citizen regardless of where he was born?

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Oboyski-direct

91

to him not being a U. S. citizen and talking about his  
exposes in Germany, and I kept informing the defendant  
the best thing he should do was to be quiet, keep his mouth  
shut.

Then we arrived at the jail and I put the defend-  
ant in as a safekeeper. Again at the jail he reiterated  
to the guard at the jail that he was not a U. S. citizen.

I informed the guard to disregard his statements  
and I again told Mr. Adams to remain silent.

Q Now directing your attention to the morning of  
October 21, 1974, were you on official duty then?

A Yes, I was.

Q Did you see the defendant?

A Yes, I did.

Q Did you notice any marks on the defendant's body?

A Yes, I did. I noticed a tattoo, a small tattoo,  
on his left thigh. It was either a heart or a flower.

Q I show you now what has previously been marked  
as Government Exhibit 10. Can you identify it?

A Yes, I can.

Q Can you tell us how you can identify it?

A I can identify it due to the fact that this  
is my handwriting, this is my signature. Two places on this  
document have my signature.



1 gwb

Oboyski-cross

93

2 witness, your Honor.

3 THE COURT: All right.

4 CROSS-EXAMINATION

5 BY MR. KEEGAN:

6 Q Marshal, what was the date on which you saw this  
7 flower or heart tattoo?

8 A The 21st of October.

9 Q And where were you when you saw it?

10 A U.S. Courthouse, U.S. Marshal's cell block.

11 Q And that is right downstairs in this building?

12 A Yes, it is, sir.

13 Q That is a place you keep prisoners who are here  
14 for the day, correct?

15 A Correct.

16 Q Prisoners don't stay there overnight, do they?

17 A No, they don't.

18 Q Will you tell me how you came to see his thigh?

19 A I asked the defendant to come out of the cell  
20 block, walked him into the print room and asked him to lower  
21 his pants, at which time he lowered his pants and I seen the  
22 tattoo on his left thigh.

23 MR. KEEGAN: I request that testimony be stricken  
24 and the jury told to disregard it. Apparently this is  
25 an illegal search by this marshal. We don't know what he



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saw.

Oboyski-cross

Q Did you advise him of his rights?

A Excuse me, sir?

Q Did you advise the defendant of his rights?

MR. WEINBERG: I object to this. It seems to be an argument, a speech by counsel.

MR. KEEGAN: I withdraw the argument.

Q Did you advise him of his rights when you told him to put his pants down?

A No, I didn't.

Q Who told you to do that?

A I took it upon myself.

MR. KEEGAN: I ask his prior testimony about the tattoo be stricken and the jury instructed to disregard it. It is obviously an illegal search.

MR. WEINBERG: Your Honor, I do not believe --

THE COURT: I think we should have a conference at the side bar.

Come up to the side bar.

(At the side bar.)

THE COURT: Sotto voce, so he can't hear it.

MR. KEEGAN: Your Honor, he has no right to inspect or examine the defendant for identification characteristics and he should have advised him he had a right to an

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Oboyski-cross

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attorney before he proceeded to do so.

MR. CUTNER: I don't know what the facts were here.

THE COURT: I don't know what the purpose of the whole offer of proof is, as a matter of fact.

MR. WEINBERG: The reason is, your Honor, because on the fingerprints from Guiana, one of the identifications of Maurice Skeffers is the fact he has a tattoo on his left thigh. It is very important to us to show that that Maurice Skeffers in Guiana who has his fingerprints taken in 1960 is the defendant.

MR. CUTNER: If a man is in custody and is going to be appearing in the courthouse the marshals have a right to check to see there are no concealed weapons.

THE COURT: You haven't established anything like that. He has a right to strip search him.

MR. KEEGAN: That wasn't the purpose for which he did it. The precise purpose was to identify him.

THE COURT: I don't know that.

MR. KEEGAN: I will ask further questions.

THE COURT: I think you should ask better questions. The chances are that I will strike it if that was the purpose of it.

MR. WEINBERG: Because it is an illegal search?



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Oboyski-cross

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THE COURT: Yes.

MR. KEEGAN: I will go back and ask questions.

MR. CUTNER: We can determine whether or not his purpose was to find the possibility of any concealed weapons.

MR. KEEGAN: That is what I intended to do.

THE COURT: That is what he intended to do.

(In open court.)

BY MR. KEEGAN:

Q Marshal Oboyski, prior to requesting the defendant to let his pants down so you could look at his thigh, had you received any information that the defendant had identifying marks anywhere on his body?

A Yes, I did.

Q Did you receive information that he had an identifying mark on his left thigh?

A Yes, I did.

Q Was that the reason you asked him to let his pants down to see if the mark was there?

A Due to a document I had in my possession, I pursued the matter.

Q You did it for further identifying the defendant in your mind?

A Yes.

1 gwb

Oboyski-cross

97

2 MR. KEEGAN: I renew my application.

3 THE COURT: I will reserve on it, Mr. Keegan.

4 You continue with cross-examination.

5 Q Was Mr. Kaufmann your regular partner when you  
6 went to the airport that night?

7 A He was my partner for that evening.

8 Q Just for that evening?

9 A We work in a squad and at different times we  
10 work with different people.

11 Q How tall is Deputy Marshal Angie Kaufmann?

12 A Six-eight.

13 Q Does that have anything to do with his being  
14 assigned to the airport that night?

15 A No.

16 Q When you got to the airport, did you have any  
17 discussion or altercation with Immigration and Naturalization  
18 concerning whether the defendant would be permitted to enter  
19 the country?

20 MR. WEINBERG: I object, your Honor.

21 THE COURT: I am going to sustain the objection,  
22 Mr. Keegan.

23 MR. KEEGAN: Let me see if I can rephrase it  
24 to meet the objection.

25 Q Did anybody from Immigration and Naturalization



1 qwb-49

2 CHARGE OF THE COURT

3  
4 (Werker, D.J.)

5 Now, ladies and gentlemen of the jury, now  
6 that the evidence is all in and counsel have summed up their  
7 respective contentions, the time has come for you and me  
8 to perform our respective functions in the administration  
9 of justice in this case.

10 As I stated to you at the outset, it is my  
11 duty to instruct you as to the principles of law to be  
12 followed, and it is your duty to accept those instructions  
13 as they are given by me and apply them to the evidence in  
14 this case.

15 The indictment against this defendant is not  
16 evidence and it does not carry with it any presumption  
17 of guilt. It is merely a means by which the defendant and  
18 the jury are informed of the nature of the charge or accusa-  
19 tions and the means of bringing the defendant to trial.

20 The defendant in this case has pleaded not guilty,  
21 and by that plea has put in issue each of the elements of the  
22 charge made against him.

23 You may not give any weight whatever to the  
24 fact that an indictment has been returned against the  
25 defendant.

1 gwb-50

2  
3 It is your duty to determine the facts as  
4 derived from your consideration of the evidence in this  
5 case and then applying the principles of law to decide  
6 whether the defendant on trial before you is guilty or  
7 not guilty of any of the charges made against him.

8 You are the sole and exclusive judges of the  
9 fact. If your recollection of the evidence differs in  
10 any way from the recollection of counsel or the Court, your  
11 recollection controls and should be relied on by you.

12 Your judgment as to what the facts are controls.  
13 You must approach your duty with complete fairness and  
14 impartiality. The Government and this defendant are  
15 equally entitled to justice in this court. The fact that  
16 this prosecution is brought in the name of the United States  
17 of America does not entitle the Government to any greater  
18 consideration than any other litigant would get, but,  
19 by the same token, it is entitled to no less consideration.

20 The issues in this case must be decided on the  
21 evidence and on the law.

22 Before I turn to the indictment in the case  
23 and the charge that is made against the defendant here,  
24 let me first give you a few basic principles that should  
25 govern you in your deliberations.

First of all, you should approach this duty



1 gwb-51

2 with an attitude of complete fairness and impartiality,  
3 one in which you reach your decision solely on the basis  
4 of the evidence and in accordance with the legal instructions  
5 that I am about to give you, and without the slightest  
6 trace of sympathy or prejudice or favoritism, either in  
7 favor of or against either side. Each side is entitled  
8 to the same fairness that you would want if you were a party  
9 to a lawsuit.

10 Under your oath as jurors you should not  
11 and cannot allow sympathy for the defendant or consideration  
12 of punishment he might receive if he were found guilty  
13 to enter into your deliberations, or to affect or influence  
14 your judgment in any way.

15 The duty of imposing sentence in the event of  
16 a conviction would rest exclusively upon the Court and  
17 upon the Court's own conscience.

18 During the trial I have been called upon to  
19 make rulings from time to time. I have sustained some  
20 objections, I have overruled others, and on one or two  
21 occasions I have ordered testimony stricken and have advised  
22 you to disregard it.

23 It is important in the performance of your  
24 duties that you limit your consideration to the evidence  
25 that was actually received in the case and not give any

1 gwb-52

2 consideration to any evidence that was stricken. It is  
3 equally important that you do not draw inferences against  
4 either side because of any objections that their counsel may  
5 have made during the trial or any argument that counsel  
6 may have made, or the fact it may have been necessary from  
7 time to time to engage in these conferences at the side bar.

8 Under our system of justice in this country,  
9 it is the function and duty of counsel to object to anything  
10 that they think is legally improper, and they would be  
11 remiss in their duty if they failed to do so.

12 But it is my function and duty to rule on these  
13 questions of law, and I would be remiss in my duty if  
14 I failed to make such rulings, even though sometimes they  
15 may not have been to the liking of some particular counsel,  
16 and that goes for counsel for the Government as well as  
17 counsel for the defendant.

18 If during the trial from my rulings or questions  
19 that I may have put to the witnesses or to counsel you got  
20 the impression that I personally have any views on the  
21 credibility of any of the witnesses or on the weight to  
22 be given to their testimony or to the proof or to the  
23 merits of the case please disregard it. It is not my  
24 intention to imply or express any opinion or any view to  
25 you with respect to the facts in the case or the merits



1 qwb-53

2 or the credibility of any witness. That is your sole and  
3 exclusive function and any ideas I may have or you may  
4 think that I may have are completely irrelevant.

5 Let me give you a few more basic principles  
6 of general application.

7 An indictment, as I said at the outset, is  
8 nothing more than a written charge or an accusation. It is  
9 the method by which the Government brings a defendant into  
10 court for trial on charges that are made under that indict-  
11 ment. No inference is to be drawn from that indictment  
12 or from the fact that an indictment has been filed.

13 The grand jury was not asked to determine whether  
14 this defendant was guilty or not guilty of the charge con-  
15 tained in the indictment. That is your function as jurors  
16 and your function alone. The defendant, as I stated, has  
17 pleaded not guilty and by so doing he has put into issue  
18 every material allegation in the indictment. That indict-  
19 ment is not evidence of guilt and it does not detract in any  
20 way from the presumption of innocence with which the law  
21 surrounds this defendant unless and until guilt is estab-  
22 lished to your satisfaction unanimously beyond a reasonable  
23 doubt.

24 Now, under our law every defendant, and that  
25 is true of the defendant in this case, is presumed to be

gwh-54

innocent. That presumption of innocence is in his favor throughout the entire trial and even into your deliberations in the jury room. It is overcome only if, as and when you determine that his guilt has been established beyond a reasonable doubt.

Now, every defendant has a right under the Constitution of the United States to remain silent and his silence may not be used against him, nor may it be discussed by you in the jury room. The burden is upon the Government to establish his guilt beyond a reasonable doubt, and that burden applies to each and every essential allegation of the crime charged against the defendant. That burden of proof never shifts to the defendant. It always remains with the Government right down to the end of the trial. No inference adverse to the defendant can be drawn from the fact that he has not taken the witness stand.

I have mentioned the term "beyond a reasonable doubt." What does that mean? As the phrase implies, it means a doubt based on reason or a doubt that appears either in the evidence or the lack of evidence in the case, including evidence that may have been elicited on cross-examination of different witnesses that have appeared before you. It is not, of course, a speculative or imaginary doubt or a doubt based upon emotion or sympathy or upon what



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some juror may consider to be an unpleasant duty.

On the other hand, the Government is not required to prove the defendant's guilt beyond any possible doubt or to a mathematical or absolute certainty. That measure of proof is seldom possible in human affairs. What you should do is review, analyze, compare and weigh the evidence that has been adduced here against the defendant and decide what you believe. If that process produces a certain belief or conviction in your mind such as would induce a prudent person to act without hesitation in a matter of importance to himself or herself, then you may say that you have been convinced beyond a reasonable doubt.

If, on the other hand, your mind is wavering or uncertain to a point where you have a doubt that would cause a prudent person to act in a matter of importance to himself or herself, then you have not been convinced beyond a reasonable doubt.

The Government charges in the indictment that on or about April 8, 1969, Maurice Alexander Adams, the defendant, made a false statement, specifically, that he was born in St. Croix, Virgin Islands, in an application for a passport, and that it was the defendant's intent to induce and receive the issuance of such passport for his own use contrary to the laws and rules regulating the

gwb-56

1 issuance of such passports. The Government has produced  
2 in evidence the passport application which lists St.  
3 Croix, Virgin Islands as the defendant's place of birth.  
4 You have also heard the testimony of the Government wit-  
5 nesses on this point.  
6

7 I will read to you the indictment. It reads  
8 as follows:

9 "The grand jury charges:

10 "On or about the 8th day of April, 1969, in  
11 the Southern District of New York, Maurice Alexander Adams,  
12 also known as David Alexander Adams, also known as  
13 Maurice Skeffers, also known as Dominique Andre Allison, the  
14 defendant, unlawfully, wilfully and knowingly and with  
15 intent to induce and secure the issuance of a passport  
16 under the authority of the United States for his own use,  
17 contrary to the laws regulating the issuance of passports  
18 and the rules prescribed pursuant to such laws, did make  
19 a false statement in an application for passport, to wit,  
20 that he was born in St. Croix, Virgin Islands, knowing  
21 then and there that this statement was false."

22 The statute which the defendant is charged  
23 with violating in the indictment is Section 1542 of Title 18  
24 of the United States Code. That section reads in  
25 reference to the charge in the indictment:



gwb-57

1  
2 "Whoever wilfully and knowingly makes any  
3 false statement in an application for passport with intent  
4 to induce or secure the issuance of a passport under the  
5 authority of the United States, either for his own use or  
6 the use of another, contrary to the laws regulating the  
7 issuance of passports or the rules prescribed pursuant to  
8 such laws, commits a crime."

9 I am about to instruct you as to the elements of  
10 the crime charged in the indictment which you must use  
11 in deciding the fact issues in this case.

12 You all know by now that this case concerns  
13 a charge that this defendant falsely represented on  
14 a United States passport application that he was a United  
15 States citizen by birth.

16 Congress has made it a crime to make such a  
17 false statement and the reason, of course, for this statute  
18 is simple, and that is that the United States does not wish  
19 to have a person represented as a United States citizen  
20 who is not a United States citizen.

21 It is also important from the standpoint of the  
22 United States, because a person who holds that passport  
23 and travels abroad is entitled to all of the privileges  
24 and immunities and the protection of the United States.  
25 The purpose is to prohibit persons who are not citizens of

gwb-58

163

1 this country from obtaining passports.

2  
3 In order to find the defendant guilty of the  
4 crime charged in the indictment, you must find beyond  
5 a reasonable doubt:

6 (1) That on or about April 8, 1969, in the  
7 Southern District of New York, which includes Manhattan,  
8 the defendant made a false statement in an application for  
9 a United States passport, that is, that he was born in St.  
10 Croix, Virgin Islands;

11 (2) That the defendant made such false state-  
12 ment knowingly and wilfully.

13 (3) That he made that statement with intent  
14 to induce or to secure the issuance of a passport under the  
15 authority of the United States for his own use.

16 (4) That the issuance of a passport in such  
17 a manner would be contrary to the laws regulating the  
18 issuance of passports or the rules prescribed pursuant to  
19 such laws.

20 The phrase "makes any false statement in an  
21 application for passport" does not require that the defendant  
22 physically wrote the false statement on the application  
23 himself. If you find that a false statement was written  
24 on the application by someone else at the direction of  
25 the defendant, or with his knowledge, and that the defendant



1 gwb-59

2 later signed that application knowing that it contained a  
3 false statement, that is sufficient to find that he made  
4 a false statement on a passport application within the mean-  
5 ing of the statute.

6 It may be helpful for you to know that the 14th  
7 Amendment to the Constitution of the United States provides  
8 that:

9 "All persons born or naturalized in the United  
10 States, and subject to the jurisdiction thereof, are  
11 citizens of the United States and of the State wherein  
12 they reside."

13 So American citizenship may be acquired in only  
14 the following ways: By birth and by naturalization, or  
15 by special Act of Congress. Persons who are not citizens  
16 of the United States by birth may acquire such citizenship  
17 only through naturalization proceedings.

18 If you should find from the evidence in the  
19 case that the defendant, at the time of the alleged offense  
20 charged in the indictment, was a citizen of the United  
21 States, or if you should have a reasonable doubt as to  
22 whether he then was a citizen of the United States, it is  
23 your duty to acquit the defendant.

24 Now, an alien is any person who is not a  
25 native-born or naturalized citizen, or national of the

1 United States.

2  
3 The term "national of the United States"  
4 includes not only a citizen, but also a person, who though  
5 not a citizen of the United States, owes personal allegiance  
6 to the United States.

7 If you should find beyond a reasonable doubt  
8 from the evidence in this case that, at any time before  
9 the alleged offense charged in the indictment, the defendant  
10 stated or admitted that he was born outside the territorial  
11 limits of the United States, such statement of family  
12 history by the defendant may be considered by the jury as  
13 sufficient alone to support a finding that the defendant  
14 was an alien at the time he made the admission, if the  
15 jury should further find beyond a reasonable doubt from the  
16 evidence in the case that the admission was voluntarily  
17 and intentionally made.

18 If you find beyond a reasonable doubt from the  
19 evidence in the case that the accused was an alien at some  
20 time prior to the time of the alleged offense charged in  
21 the indictment, then you may draw the inference and find  
22 that the status of the accused as an alien continued up  
23 to and including the time alleged in the indictment, unless  
24 it appears from the evidence in the case that the accused  
25 became a naturalized American citizen prior to the time



1 gwh-61

2 alleged in the indictment.

3 You are not compelled, however, to so find.  
4 You are the sole judges of the facts.

5 The next element you must find is that the  
6 statement was made with the intent to induce or secure the  
7 issuance of a passport, and you may ask how you are to  
8 determine what the defendant's intent was.

9 Knowledge and intent exist in the mind. Since  
10 it is not possible to look into a man's mind to see what  
11 went on, the only way you have for arriving at a decision  
12 in these questions is for you to take into consideration  
13 all the facts and circumstances shown by the evidence,  
14 including the exhibits, and determine from all such facts  
15 and circumstances whether the requisite knowledge and  
16 intent were present at the time in question. Direct proof  
17 is unnecessary. Knowledge and intent may be inferred from  
18 all of the surrounding circumstances.

19 As far as intent is concerned, you are instructed  
20 that a person is presumed to intend the natural, probable,  
21 or ordinary consequences of his acts.

22 I instruct you as a matter of law the United  
23 States passport which is obtained by means of a false  
24 statement on the application is obtained contrary to the  
25 laws regulating the issuance of passports and the rules

gwb-62

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prescribed pursuant to such laws.

Evidence that an act was done at one time, or on one occasion, is not any evidence or proof whatever that a similar act was done at another time, or on another occasion. That is to say, evidence that the defendant may have committed an earlier act of a like nature may not be considered by the jury in determining whether the accused committed any act in the indictment.

Nor may evidence of an alleged earlier act of a like nature be considered for any other purpose whatever, unless the jury first finds that the other evidence in the case, standing alone, established beyond a reasonable doubt that the accused did the particular act charged in the particular count of the indictment then under deliberation.

And the same thing is true of acts later committed. If the jury should find beyond a reasonable doubt from other evidence in the case that the accused did the act charged in the particular count under deliberation, then the jury may consider evidence as to an alleged earlier act or a later act of a like nature in determining the state of mind or intent with which the accused did the act charged in the particular count and where proof of an alleged earlier or later act of a like nature is established



1 qwh-63

2 by evidence which is clear and conclusive, the jury may,  
3 but it is not obliged to, draw the inference and find that,  
4 in doing the act charged in the particular count under  
5 deliberation, the accused acted wilfully and with specific  
6 intent. and not because of mistake or accident or other  
7 innocent reason.

8 Now, the terms unlawfully, wilfully and knowingly  
9 mean that you must be satisfied beyond a reasonable doubt  
10 that the defendant knew what he was doing and that he did  
11 it deliberately and voluntarily as opposed to mistakenly  
12 or accidentally or as the result of some coercion. Of  
13 course, it is not necessary that the defendant knew that he  
14 was violating any particular law. Rather, it is sufficient  
15 if you are convinced beyond a reasonable doubt that he was  
16 aware of the general unlawful nature of his acts.

17 Unlawfully means simply contrary to law.

18 Wilfully means an act done voluntarily with  
19 knowledge that it was prohibited by law and with the purpose  
20 of violating the law.

21 Knowledge and intent exist in the mind and the  
22 old phrase about acts speak louder than words applies to  
23 intent.

24 Now, it is for you to determine the weight that  
25 you will give to the evidence, the credibility that you

1 gwb-64

2 will extend to the witnesses and the reasonable inferences  
3 which are to be drawn from the evidence you have heard.

4 In judging the credibility of a witness and in  
5 determining the weight to be given to his testimony, you  
6 may consider the witness' demeanor and manner while on the  
7 witness stand, the character of his testimony as being  
8 probable or improbable, the reasonableness of his testimony,  
9 the consistency or inconsistency of statements made by  
10 him on the witness stand, patent omissions and discrepancies  
11 in his testimony or between the testimony of different  
12 witnesses, contradictory testimony, whether his story  
13 dovetailed with the rest of the credible testimony in the  
14 case and whether or not it was memory testimony given years  
15 after the occurrence of events.

16 The testimony of a witness whose self interest  
17 or attitude is shown to be such as might tend to prompt  
18 testimony unfavorable to a defendant should be considered  
19 with caution and weighed with great care.

20 If you find that any witness has wilfully  
21 testified falsely to any material fact, it is up to you to  
22 disregard all of his testimony or to credit such parts  
23 as you think credible and reliable. You should remember  
24 in this connection that no witness is entitled to any  
25 greater or lesser degree of credit in advance because of



gwb-65

1 his sponsorship or his employment. Specifically, the  
2 fact that a witness is called by the Government or is  
3 employed by the Government or both is not in and of itself  
4 any reason to give more credit or less credit solely  
5 because of the fact of his status.  
6

7 Now, an expert is permitted to state his opinion  
8 for the information of the Court and jury, and the opinion  
9 stated by the expert whose testimony is before you is based  
10 on particular facts as the expert observed them and testi-  
11 fied before you or as the attorneys who questioned him  
12 asked him to assume.

13 You may reject an expert's opinion if you find  
14 the facts to be different from those which form the basis  
15 for the opinion. You may also reject his opinion if,  
16 after careful consideration of all of the evidence in the  
17 case, expert and otherwise, you disagree with the opinion.  
18 In other words, you are not required to accept an expert's  
19 opinion to the exclusion of the facts and circumstances  
20 disclosed by other testimony or exhibits. Such an opinion  
21 is given to you to assist you in reaching a proper  
22 conclusion but it is subject to the same rules concerning  
23 reliability as the testimony of any other witness. It is  
24 entitled to such weight as you find the expert's qualifications  
25 in the field warrants, and must be considered by you but

1 qwb-66

2 it is not controlling upon your judgment.

3 I want to discuss with you at this point the  
4 type of evidence in general and you may apply them your-  
5 selves to the facts in this case.

6 There are two types of evidence. There is  
7 direct evidence and there is what you frequently have heard  
8 referred to as circumstantial evidence.

9 Direct evidence is where a witness testifies  
10 as to what he saw, what he heard, what he observed with his  
11 own senses, something that he knows of his own knowledge.  
12 That is direct evidence.

13 Circumstantial evidence is evidence of facts  
14 and circumstances from which a person might infer connected  
15 facts that reasonably follow in common experience from the  
16 facts that have been proved. Circumstantial evidence is  
17 of course entitled to no less weight than direct evidence.  
18 In either case the inference or inferences that you draw  
19 from it and the weight that you give to those inferences is  
20 going to depend upon the credibility and on the weight  
21 that you extend to the underlying evidence as a basis for  
22 inferring another fact from that evidence. An inference  
23 is a logical, reasonable deduction from certain facts. It  
24 must not be based upon mere suspicion or guesswork. It  
25 must be based upon evidence. The Government in this case



gwb-67

asks you to draw one set of inferences from certain circumstances that have been introduced into evidence whereas the defendant draws into question the reasonableness of such inferences. It is going to be up to you and you alone to decide what inferences you are going to draw.

Let me give you an example of circumstantial evidence. You may recall in the old story of Robinson Crusoe how one day he saw footprints in the sand on the beach. He did not see a man walking on the beach, but he immediately drew an inference from the fact of the footprints that a man in fact had been walking on the beach. That is an example of the inferences to be drawn from circumstantial evidence.

Now, I am not going to review the evidence in this case. Counsel have sufficiently reviewed it. It has been a short trial. Most of the evidence you heard yesterday. But when you retire to deliberate, each of you of course should exchange views with the other. That is the very purpose of the jury system. You should discuss, weigh, and analyze, consider the evidence, consider the testimony, consider those documents. You should listen to the arguments put forward by your fellow jurors, you should present your own views, consult with each other and, most important, as I have said, you are to do so dispassionately and without

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2 emotion and certainly without sympathy or prejudice for  
3 or against the defendant or the Government. Each of you  
4 has the right, and I emphasize this, and the duty, of course,  
5 to decide for yourself what your verdict will be after  
6 consideration and deliberation with your fellow jurors. You  
7 should not hesitate to change your mind or your opinion  
8 after you discuss it with others provided that you yourself  
9 conclude that your initial view was erroneous. In other  
10 words, you have to be willing to discuss the evidence with  
11 an open and not a closed mind and do it dispassionately.  
12 You are not, on the other hand, required to yield a con-  
13 scientious conviction which you hold simply because you are  
14 outnumbered by jurors who may hold an opposite view. Your  
15 verdict has to represent your view.

16 A verdict of guilty or not guilty has to be  
17 unanimous.

18 If you need the indictment or if you want any  
19 particular portion of the charge read back or of the testi-  
20 mony, send a note by your forelady and we will do our best  
21 to locate the testimony and read it back to you. I emphasize  
22 to you that I will not read back the whole testimony of  
23 any particular witness, but if you have a question with  
24 respect to a particular portion of that testimony, we will  
25 be glad to read it to you. All I ask is that if there be



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such an inquiry, try to particularize it.

I am going to send you out with all of the exhibits so that there will be no necessity for your asking for any of the exhibits. They will be with you. And I am going to let you take the indictment into the jury room. Your oath as jurors sums up your duty, and that is without fear and without favor you will decide this case, try the issues between the United States and Mr. Adams fairly and to the best of your ability.

I am now going to ask counsel to step to the side bar to see if there is anything I should add.

(At the side bar.)

MR. KEEGAN: Do you want me to go first?

THE COURT: You are Number 1.

MR. KEEGAN: I have to make an objection to something. That is my role. So I will object to the purpose of the statute. That is all I have to object to.

THE COURT: Overruled.

MR. WEINBERG: Nothing, your Honor.

(In open court.)

THE COURT: All right, ladies and gentlemen, there is nothing to add to the charge.

Mr. Hughes, will you swear the marshals.

(Marshals sworn by clerk.)

(PLEASE TYPE OR PRINT)

35

DEPARTMENT OF STATE  
PASSPORT APPLICATION

(Before completing this application, read and detach information for Passport Applicants on pages 3 and 4. (Use supplemental sheets when the space provided is not adequate)

TO BE COMPLETED BY ALL APPLICANTS

(First name) (Middle name) (Last name)

a citizen of the United States, do hereby apply to the Department of State for a passport.

MAIL PASSPORT TO:

CARE OF (if applicable)

STREET

CITY

ZIP CODE

PHONE NO.

DATE OF BIRTH

(Month) (Day) (Year)

PLACE OF BIRTH (City, State or Province, Country)

HEIGHT

6 Ft. 6 In.

COLOR OF HAIR

Black

COLOR OF EYES

Brown

APPROXIMATE DATE OF DEPARTURE

12 February

VISIBLE DISTINGUISHING MARKS

none

OCCUPATION

B.M. Manager

SOCIAL SECURITY NO.

104-46-274

PERMANENT RESIDENCE (Street address, City, State, ZIP Code) (If Mailing Address, write "Same")

9116-76th ST, NYC, N.Y.

COMPLETE ONLY IF WIFE/HUSBAND OR CHILDREN ARE TO BE INCLUDED IN PASSPORT AND SUBMIT GROUP PHOTOGRAPH

WIFE(S) (HUSBAND'S) FULL LEGAL NAME

WHO WAS BORN AT

ON (Date of birth)

CHILD(REN) NAME(S) IN FULL

PLACE OF BIRTH (City, State or Country)

DATE OF BIRTH (Month, Day, Year)



TO BE COMPLETED BY APPLICANT FOR HIMSELF AND PERSONS INCLUDED

HAVE YOU, YOUR WIFE/HUSBAND OR CHILD(REN) PREVIOUSLY APPLIED FOR OR BEEN INCLUDED IN A U.S. PASSPORT?

☐ Yes ☒ No IF SO, PREVIOUS PASSPORT NUMBER(S):

☐ Submitted for cancellation

NOT SUBMITTED FOR CANCELLATION:

When and where issued:

Disposition:

THE EVENT OF ACCIDENT OR DEATH NOTIFY

Name in full:

Fredrick H. Huxley

Relationship:

Friend

Street address, City, State

(PASSPORT OFFICE USE ONLY)

APR-8-69 400061

LT

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APR-8-69 400061

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FEE EXEC. TWX POST.



## TO BE COMPLETED BY ALL APPLICANTS

FATHER'S NAME <i>Donald Alexander Adams</i>	FATHER'S PLACE OF BIRTH <i>St. Croix</i>	FATHER'S DATE OF BIRTH <i>7/1/1915</i>	<input type="checkbox"/> U.S. CITIZEN <input checked="" type="checkbox"/> NOT U.S. CITIZEN
MOTHER'S MAIDEN NAME <i>Marjorie Williams</i>	MOTHER'S PLACE OF BIRTH <i>St. Croix</i>	MOTHER'S DATE OF BIRTH <i>1/1/1915</i>	<input type="checkbox"/> U.S. CITIZEN <input checked="" type="checkbox"/> NOT U.S. CITIZEN
<input checked="" type="checkbox"/> I WAS NEVER MARRIED <input type="checkbox"/> I WAS LAST MARRIED ON _____		TO (Full legal name - complete whether widowed or divorced) _____ WHO WAS BORN ON (Date) _____	
BORN AT (City, State, Country) <i>Minneapolis, Minn.</i>	<input checked="" type="checkbox"/> WHO IS A U.S. CITIZEN <input type="checkbox"/> WHO IS NOT A U.S. CITIZEN	<input type="checkbox"/> MARRIAGE NOT TERMINATED <input type="checkbox"/> MARRIAGE TERMINATED BY <input type="checkbox"/> Death <input type="checkbox"/> Divorce on (Date) _____	
WOMEN MUST COMPLETE FOLLOWING IF CHILDREN OF A PREVIOUS MARRIAGE ARE INCLUDED OR IF PREVIOUSLY MARRIED BEFORE MARCH 3, 1931			
I WAS PREVIOUSLY MARRIED ON _____	TO (Full legal name) _____		WHO WAS BORN AT (City, State, Country) _____
ON (Date of birth) _____	<input type="checkbox"/> FORMER HUSBAND WAS U.S. CITIZEN <input type="checkbox"/> FORMER HUSBAND WAS NOT U.S. CITIZEN	PREVIOUS MARRIAGE TERMINATED BY <input type="checkbox"/> DEATH <input type="checkbox"/> DIVORCE ON (Date) _____	

## COMPLETE IF APPLICANT OR ANY PERSON INCLUDED WAS NOT BORN IN THE U.S. AND CLAIMS CITIZENSHIP THROUGH PARENT(S)

IMMIGRATED TO THE U.S. (Month) (Year) <input type="checkbox"/> APPLICANT <input type="checkbox"/> WIFE <input type="checkbox"/> HUSBAND <input type="checkbox"/> CHILD	IF FATHER NATURALIZED: DATE _____ CERTIFICATE NO. _____ BEFORE (Name of Court) _____ PLACE (City, State) _____		IF KNOWN, FATHER'S RESIDENCE IN U.S. From (Year) To (Year)
RESIDED CONTINUOUSLY IN THE U.S. From (Year) To (Year) <input type="checkbox"/> APPLICANT <input type="checkbox"/> WIFE <input type="checkbox"/> HUSBAND <input type="checkbox"/> CHILD	IF MOTHER NATURALIZED: DATE _____ CERTIFICATE NO. _____ BEFORE (Name of Court) _____ PLACE (City, State) _____		IF KNOWN, MOTHER'S RESIDENCE IN U.S. From (Year) To (Year)

## PROPOSED TRAVEL PLANS - TO BE COMPLETED BY ALL APPLICANTS

PURPOSE OF TRIP <i>Vacation</i>	MEANS OF TRANSPORTATION Departure <input type="checkbox"/> Ship <input checked="" type="checkbox"/> Air <input type="checkbox"/> Other <input type="checkbox"/> Return <input type="checkbox"/> Ship <input type="checkbox"/> Air <input type="checkbox"/> Other <input type="checkbox"/>	COUNTRIES TO BE VISITED <i>St. Thomas</i>
PROPOSED LENGTH OF STAY <i>2 months</i>	DO YOU EXPECT TO TAKE ANOTHER TRIP ABROAD? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF SO, WITHIN <input type="checkbox"/> Year <input type="checkbox"/> 2 Years <input type="checkbox"/> 5 Years	
NO. OF PREVIOUS TRIPS ABROAD WITHIN LAST 12 MONTHS <i>none</i>		

WARNING: Travel to or in countries or areas for which the passport is not valid will result in the withdrawal of passport facilities and may result in prosecution under Section 1544 of Title 18, United States Code.

False statements made knowingly and willfully in passport applications or in affidavits or other supporting documents are punishable by fine and/or imprisonment under the provisions of 18 USC 1001 and/or 18 USC 1542. 12 USC 1543 provides for a fine and/or imprisonment for the alteration or mutilation of a passport issued pursuant to this application. 18 USC 1544 provides for a fine and/or imprisonment for the use of a passport in violation of the restrictions therein.

I have not (and no other person included in the application has), since acquiring United States citizenship, been naturalized as a citizen of a foreign state; taken an oath or made an affirmation or other formal declaration of allegiance to a foreign state; entered or served in the armed forces of a foreign state; accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof; made a formal renunciation of nationality either in the United States or before a diplomatic or consular officer of the United States in a foreign state; ever sought or claimed the benefits of the nationality of any foreign state; or been convicted by a court or court martial of competent jurisdiction of committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, or conspiring to overthrow, put down or to destroy by force, the Government of the United States.

(If any of the above-mentioned acts or conditions have been performed by or apply to the applicant, or to any other person to be included in the passport, the portion which applies should be struck out, and a supplementary explanatory statement under oath (or affirmation) by the person to whom the portion is applicable should be attached and made a part of this application.)

I solemnly swear (or affirm) that the statements made on all the pages of this application are true and that the photograph attached is a likeness of me and of those persons to be included in the passport.

## OATH OF ALLEGIANCE

Further, I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservations, or purpose of evasion: So help me God.

(To be signed at same time by wife and husband, to be the used in passport)  
AGENT, DEPARTMENT OF STATE

(To be signed by Applicant in presence of person administering oath)

Subscribed and sworn to (affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

APR 8 - 1959

(SEAL OF COURT)

NEW YORK, NEW YORK

Clerk of the \_\_\_\_\_

Court or Passport Agent at \_\_\_\_\_

(Signature of Clerk of Court or Passport Agent)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK )  
COUNTY OF NASSAU ) ss.:

ANDREA GIANFELICE being duly sworn, deposes and says:  
that she is over the age of 18 years and not a party to this  
action; that on the 29th day of August, 1975, she served ~~a~~<sup>2</sup>  
true ~~copy~~<sup>copies</sup> of the within Brief and Appendix on Appeal on  
the United States Attorney, the attorney for the appellee  
herein, by depositing the same, properly enclosed in a  
securely sealed, postpaid wrapper in a United States Post  
Office Box located at 1000 Franklin Avenue, Garden City,  
New York, directed to the said attorney at United States  
Attorney's Office, One East Andrew's Plaza, Borough of New  
York, City of New York. 10007.

Andrea Gianfelice  
ANDREA GIANFELICE

Sworn to before me this  
29th day of August, 1975.

David V. Keegan  
DAVID V. KEEGAN  
Notary Public, State of New York  
No. 30-4510493  
Qualified in Nassau County  
Commission Expires March 30, 1977



